

EXHIBIT 63



Participating Shareholder Rights **Charitable DAF Holdco Ltd.**

Making financial services work

Bermuda | British Virgin Islands | Cayman Islands | Dubai | Guernsey | Hong Kong | Ireland | Jersey | London | Singapore



Binding Effect of Articles of Association

Binding Effect of Articles of Association

"... the binding effect of the Articles as they stand ... is given statutory force by section 25(3) of the Companies Law which reads:

‘(3) Where registered the said articles of association shall bind the company and the members thereof to the same extent as if each member had subscribed his name and affixed his seal thereto, and there were in such articles contained a covenant on the part of himself, his heirs, executors and administrators to conform to all the regulations contained in such articles subject to this law; ...’"

(*In the Matter of Strategic Turnaround Master Partnership Ltd* [2008] CIGC J1128-1, per Chief Justice Smellie at paragraph 135)

Participation in Discretionary Dividends

Participate in Discretionary Dividends

“The Participating Shares shall confer upon the Shareholders ... the right to participate in the profits or assets of the Company in accordance with these Articles.” **(Art 12)**

Participation in Discretionary Dividends

“The Directors may, before recommending or declaring any dividend, set aside out of the funds legally available for distribution such sums as they think proper as a reserve or reserves which shall, in the absolute discretion of the Directors be applicable for meeting contingencies, or for equalising dividends or for any other purpose to which those funds may be properly applied and pending such application may in the absolute discretion of the Directors, either be employed in the business of the Company or be invested in such investments as the Directors may from time to time think fit.” **(Art 102)**

“Subject to any rights and restrictions for the time being attached to any Participating Shares, all dividends shall be declared and paid in such amounts as may be declared by the Director's in their sole and absolute discretion without a requirement to pay such dividends on a pro-rata basis as to the paid-up or par value of the Shares.” **(Art 105)**

Participating Shareholders do not have:

- **the right to cause or vote on distributions;**
- **the right to pro rata distributions based on their shareholding;**
- **the right to annual or timed distributions; or**
- **the right to receive notice of distributions to other Participating Shareholders.**

Removal of Directors

Removal of Directors

“Subject to these Articles, a Director shall hold office until such time as he is removed from office by Ordinary Resolution.”
(Art 65)

Participating Shareholders do not have:

- the right to remove Directors; or
- the right to appoint Directors.

Note: the right to appoint Directors is held by the Management Shareholder and the Directors, and the right to remove Directors is held solely by the Management Shareholder (Articles 64, 65, and 69, and Definition of “Ordinary Resolution”).

Modification of Rights

Modification of Rights

“... the rights attached to [any] Class may ... only be materially adversely varied or abrogated with the consent in writing of the holders of not less than two-thirds of the issued Participating Shares of the relevant Class or with the sanction of a resolution passed at a separate meeting of the holders of the Participating Shares of such Class by a majority of two-thirds of the votes cast at such a meeting.” **(Art 13)**

Participating Shareholders do not have:

- **the right to cause a distribution; or**
- **the right to amend the Articles.**

Modification of Rights – Issuance of Shares

“The rights conferred upon the holders of the Participating Shares of any Class issued with preferred or other rights shall not ... be deemed to be materially adversely varied or abrogated by, *inter alia*, the creation, allotment or issue of further Participating Shares ranking *pari passu* with or subsequent to them or the redemption or purchase of any Participating Shares of any Class by the Company.” (Art 14)

“... all Shares for the time being unissued shall be under the control of the Directors who may:

- (a) issue, allot and dispose of the same to such Persons, in such manner, on such terms and having such rights and being subject to such restrictions as they may from time to time determine;
 - (b) and grant options with respect to such Shares and issue warrants or similar instruments with respect thereto;
- and, for such purposes, the Directors may reserve an appropriate number of Shares for the time being unissued.” (Art 7)

Participating Shareholders do not have:

- the right to vote on the issuance of further Participating Shares;
- pre-emption rights; or
- the right to receive notice of such issuance.

Modification of Rights – Issuance of Shares

“The capital of the Company is US\$50,000.00 divided into 4,999,900 Participating Shares of a nominal or par value of US\$0.01 each 100 Management Shares of a nominal or par value of US\$0.01 each...” **(Art 7)**

Note: Of the authorised share capital of the Company, 305 Participating Shares have been issued. In accordance with the Articles, the Directors may unilaterally issue additional Participating Shares and thereby dilute the power of existing shareholders for the purposes of voting on matters that may materially adversely vary or abrogate the rights of the Participating Shareholders.

Additional Note: many of the rights that shareholders of a company typically hold (e.g. the right to receive notices, and the right to vote at general meetings, including in respect of the appointment and removal of directors) are held by the Management Shareholder (Mark Patrick) rather than the Participating Shareholders. In addition, the Directors (Mark Patrick and Paul Murphy) have the ability to unilaterally declare dividends and issue new Participating Shares without the approval of the Participating Shareholders (or the Management Shareholder).

Share Redemption

Share Redemption

“**Participating Share**” means a non-voting, participating, non-redeemable share in the capital of the Company of \$0.01 nominal or par value issued subject to and in accordance with the provisions of the Act and these Articles...”

“... the Company shall have power to redeem or purchase any of its shares and to sub-divide or consolidate the said shares or any of them...” **(Paragraph 7, Memorandum)**

“The rights conferred upon the holders of the Participating Shares ... shall not ... be deemed to be materially adversely varied or abrogated by ... the redemption or purchase of any Participating Shares of any Class by the Company.” **(Art 14)**

Participating Shareholders do not have:

- the right to redeem their shares; or
- the right to vote on the Company’s redemption of their shares.

Transfer of Shares

Share Transfer by Notice of the Directors – Restricted Person

“If it comes to the notice of the Directors that any Shares are held by a Restricted Person the Directors may by notice in writing require the transfer of such Shares in exercise of their powers under these Articles.” **(Art 21)**

"Restricted Person" means any Person holding Participating Shares:

- a) in breach of the law or requirements of any country or governmental authority;
- b) that is not an entity or organisation exempt from taxation under Section 501(c)(3) of the Code or an entity or organisation all of whose beneficiaries are exempt under Section 501 (c)(3) of the Code; or
- c) in circumstances (whether directly or indirectly affecting such Person and whether taken alone or in conjunction with any other Person, connected or not, or any other circumstances) which, in the opinion of the Directors, might result in the Company incurring any liability to taxation or suffering any other pecuniary, legal, regulatory or administrative disadvantage which the Company might not otherwise have incurred or suffered."

Note: the Directors have duties to act, and to exercise their powers, in the best interests of the Company. The scope of those duties includes continually evaluating whether any Participating Shareholder may pose a threat to the Company which could cause them to fall within the definition of Restricted Person, and how best to protect the Company against any such threat.

General Meetings

General Meetings

“Participating Shares shall confer upon a Shareholder no right to receive notice of, to attend, to speak at nor to vote at general meetings of the Company...” **(Art 12)**

Participating Shareholders do not have:

- **the right to receive notice of general meetings;**
- **the right to attend general meetings;**
- **the right to speak at general meetings;**
- **the right to vote at general meetings; or**
- **the right to information regarding proceedings of general meetings.**

Limited Information Rights

Limited Information Rights

"The books of account relating to the Company's affairs shall be kept in such manner as may be determined from time to time by the Directors."
(Art 108)

"The Directors may from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of Shareholders not being Directors, and no Shareholder (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by law or authorised by the Directors or by Ordinary Resolution." **(Art 110)**

Participating shareholders have very limited information rights. Specifically, the articles do not provide the Participating Shareholders with the following:

- **the right to inspect any account;**
- **the right to inspect any book; or**
- **the right to inspect any document of the Company.**

Further to the above, we note that :

- This only applies to the limited company which issued the participation shares, i.e. DAF HoldCo;
- It does not apply to subsidiary entities;
- It does not apply to entities in which DAF HoldCo holds a passive interest; and
- There is no "look- through" down through all the entities in the structure.